

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/777,077	KANEVSKY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nicholas D. Rosen	3625	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 2/22/2006.
2. ☒ The allowed claim(s) is/are 1,10-15,17-20 and 22-32.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                               | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date ____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date ____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material         | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other ____.   |

### **DETAILED ACTION**

Claims 1, 10-15, 17-20, and 22-32 have been examined.

#### ***Allowable Subject Matter***

Claims 1, 10-13, and 22-24 are allowed.

Claims 14, 15, 25, and 26 are allowed.

Claims 17, 18, 19, 27, 28, and 32 are allowed.

Claims 20, 29 and 30 are allowed.

Claim 31 is allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, Allen (U.S. Patent 6,041,316), discloses a system running in a central processing unit for changing the appearance and performance generated by a specified application, the system comprising: a timer for measuring time; and means, responsive to the timer, to change, after receipt of the specified application by the central processing unit, the appearance or performance generated by the specified application according to a timed procedure to encourage a user of the application to abandon this specified application, and to purchase a new version of the specified application (column 7, line 11, through column 8, line 56). Allen does not quite expressly disclose means to degrade said network bandwidth, but does disclose accessing an audio database, and receiving degraded versions of music "with an audio quality level at or below that produced over a standard telephone line" (column 8, lines 6-15), which could surely be accomplished by in fact degrading the bandwidth. Allen does not disclose that

the means to change the appearance or performance of the specified application include means to eliminate the functionalities of the specified application (the application being undegraded and having a set of complete functionalities) one at a time according to a timed procedure to provide the user with a continuous, but progressively diminishing, use of the specified application, nor does any other prior art of record teach this in relevant context. Edwards (U.S. Patent 5,014,234) teaches allowing software to operate for a limited time before disabling it if it is not properly registered, but does not teach providing the user with a continuous, but progressively diminishing, use of the specified application. Ugon et al. (U.S. Patent 5,442,645) teach copy-protected programs set to degenerate further with each successive copying (column 1), but this is not progressively diminishing use of the application responsive to a timer. Colvin (U.S. Patent 5,044,471) teaches disabling software if the user lacks authorization, but this does not teach providing the user with a continuous, but progressively diminishing, use of the application. Fukuda (U.S. Patent 6,469,239) teaches deliberately deteriorating the sound quality of music when it is copied, but this is responsive to the copying, not to a timer, and does not provide the user with a continuous, but progressively diminishing, use of the specified application. Agarwal (U.S. Patent 6,587,881) discloses degrading the performance of software if too many active requests are made, but this relates to the number of people attempting to use the software, and not to the time an application has been running, and does not necessarily provide the user with a continuous, but progressively diminishing, use of the specified application.

The above statement has been written with particular reference to claim 1, but independent claims 14, 17, 20, and 31 include parallel limitations, and are also allowable on the grounds set forth above.

In regard to the rejections formerly made under 35 U.S.C. 112, first paragraph, Applicant's arguments have been found persuasive. Also, in regard to the limitation "means to eliminate said functionalities one at a time" in claim 1, and parallel language in the other independent claims, this is supported by the first paragraph on page 5 of the specification.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Edwards, Jr. (U.S. Patent 5,014,234) disclose a system with software usage timer and counter for allowing limited use but preventing continued unauthorized use of protected software. Ugon et al. (U.S. Patent 5,442,645) disclose a method for checking the integrity of a program or data, and apparatus for implementing the method. Colvin (U.S. Patent 6,044,471) discloses a method and apparatus for securing software to reduce unauthorized use. Fukuda (U.S. Patent 6,469,239) discloses a data storage apparatus and data storage method with quality degrading

elements. Agarwal et al. (U.S. Patent 6,587,881) disclose a software server usage governor.

The anonymous article, "Eighteen Software Publishers Will Use IBM's CD Showcase," discloses trial software with certain functions disabled, or with a built-in expiration time. Hatley ("Shareware That's Fair and Square; Buzzwords") discloses demonstration versions of programs, with certain functions disabled or reduced in function. Langberg ("San Jose Mercury News, Calif., Technology Testdrive Column") discloses software that goes into reduced functionality mode after 30 days. **The Langberg article is made of record as potentially relevant, but, based on its publication date, does not qualify as prior art.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's current acting supervisor, Yogesh Garg, can be reached at 571-272-6756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Nicholas D. Rosen*

NICHOLAS D. ROSEN  
PRIMARY EXAMINER

April 22, 2006